

Chapter 22

HOUSING AND HYGIENE*

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ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of the provisions of this chapter:

Basement: A portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Cellar: A portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below, the average grade of the adjoining ground.

Director of health: The superintendent of the division of inspections and any other representatives of the superintendent who have been authorized to assist the division of inspections in the enforcement of this code.

Dwelling: Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided, that temporary housing as hereinafter defined shall not be regarded as a dwelling.

Dwelling unit: Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their foods; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the director of health.

Garbage: The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets and storage spaces.

Infestation: The presence, within or around a dwelling, of any insects, rodents or other pests.

Multiple dwelling: Any dwelling containing more than two (2) dwelling units.

***Charter reference**—Authority to require all premises to be kept clean and sanitary, §§ 38(18),(31).

Cross references—Department of public works, § 2-225 et seq.; building, Ch. 11; planning, Ch. 30; zoning, Ch. 35.1.

Occupant: Any person living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator: Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let. **Ordinary minimum winter conditions:** The temperature fifteen (15) degrees Fahrenheit above the lowest recorded temperature for the previous ten (10) year period.

Owner: Any person who, alone or jointly or severally with others;

(a) Shall have the legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(b) Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and with rules and regulations adopted pursuant hereto, to the same extent as if he were the owner.

Plumbing: All of the following supplied facilities and equipment: Gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Premises: Dwelling, dwelling unit or habitable room together with the ground, yard, lawn, court, way, walk, alley, approach or stair used in connection therewith whether or not in whole or in part with others.

Rooming unit: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rooming house: Any dwelling, or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rubbish: Combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

Supplied: Paid for, furnished or provided by or under the control of the owner or operator.

Temporary housing: Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

Meaning of certain words: Whenever the words, "dwelling," "dwelling units," "rooming house," "rooming unit," "premises," are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof." (Code 1959, § 18-1; Ord. No. O-86-278, § 1, 11-25-86)

Sec. 22-2. Penalties.

Any person who shall violate any provision of this chapter or who shall violate any lawful provision of any rule, regulations or order adopted or made by the director of health pursuant to the provisions of this chapter and approved as herein provided, shall be punished by a fine of not more than one thousand dollars (\$1,000.00); and each day's failure to comply with any such provision, rule, regulation, requirement or order shall constitute a separate violation. (Code 1959, § 18-12; Ord. No. O-86-278, § 1, 11-25-86)

Sec. 22-3. Conflict.

This chapter is designed to supplement and to be enforced in conjunction with the provisions of Volume II - Building Maintenance Code of the 1984 edition of the Virginia Uniform Statewide Building Code, in any case where a provision of this chapter may be found to be in conflict with a provision of Volume II - Building Maintenance Code, the provisions of Volume II - Building Maintenance Code shall prevail. In any case where a provision of this chapter may be found to be in conflict with a provision of any zoning, building, fire, safety or health regulation or requirement contained in any other chapter of this Code, that provision, requirement or regulation which establishes the higher standard for the promotion and protection of the health and safety of the public shall prevail. In any case where a provision of this chapter be found to be in conflict with a provision or any other section title or chapter of this Code which establishes a lower standard for the promotion and protection of the health and safety of the public, the provisions of this chapter shall be deemed to prevail. (Code 1959, § 18-13; Ord. No. O-86-278, § 1, 11-25-86)

Sec. 22-4. Inspections authorized; right of entry.

The director of health is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the city, in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections the director of health is hereby authorized upon exhibiting proper identification, to enter, collect specimens, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises in the city. The owner or occupant of every dwelling, dwelling unit and rooming unit, or the person in charge thereof, shall give the director of health free access to such dwelling, dwelling unit or rooming unit and its premises, at all reasonable times for the purpose of such inspection, collection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter. (Code 1959, § 18-2)

Sec. 22-5. Notice of violation—Issuance, service.

(a) Whenever the director of health determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided. Such notice shall:

- (1) Be in writing;
- (2) Include a statement of the reasons why it is being issued;
- (3) Allow a reasonable time for the performance of any act it requires;

(4) Be served upon the owner or his agent, or the occupant, as the case may require; provided, that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him personally; or if a copy thereof is sent by certified mail to his last known address; or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of this state. Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant hereto.

(b) Service of the notice required by subsection (a) of this section may be made by any person by delivery of a copy of such notice to the party to whom directed, in person; or if he or she be not found at his or her usual place of abode, by delivering such copy and giving information of its purport to any person found there, who is a member of his or her family (not a temporary sojourner or guest) and above the age of sixteen (16) years; or if neither he nor she, nor any person be found there, by leaving a copy of the notice posted at the front door of such place of abode; provided, however, that if such notice in writing shall have reached its destination five (5) days before the expiration of the time specified in such notice, it shall be sufficient, although not served in the manner above mentioned.

(c) Any person who shall remove or cause to be removed such posted notice without due authority shall be punishable as provided in section 22-2 of this chapter. (Code 1959, § 18-3(a,b))

Sec. 22-6. Same—Uninhabited dwellings.

When the notice of a violation of the provisions of this chapter shall relate to any dwelling, dwelling unit, habitable room or premises which may be uninhabited, unoccupied or vacant at the time of the service of said notice, such dwelling, dwelling unit, habitable room or premises shall not thereafter be rented, leased or occupied until the conditions complained of in such notice shall have been remedied and the director of health shall have so certified or until an appeal of the requirements of said notice shall have been perfected as hereinafter provided. (Code 1959, § 18-3(c))

Sec. 22-7. Same—Non compliance.

If a person upon whom a notice of violation of the provisions of this chapter has been served as provided for in sections 25-5 and 22-6 does not:

(a) Within the specified period after the serving upon him of such notice commence compliance with the directions thereof and complete such compliance within a reasonable period thereafter, or

(b) Within ten (10) days after the service of such notice perfect an appeal to the board of housing and hygiene, he shall be guilty of violating the provisions of this chapter. (Code 1959, § 18-3(d))

Sec. 22-8. Repealed. (O- 86- 278)

Editor's note—Section 22-8, pertaining to appeals from notices of violation of this chapter, and derived from § 18-3(e), (f) of the city's 1959 Code, was repealed by § 2 of Ord. No. O-86-278, adopted Nov. 25, 1986.

Sec. 22-9. Unfit dwellings—Designated.

Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the director of health:

(a) One which is so damaged, dilapidated, insanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(b) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(c) One which because of its general condition or location is insanitary, or otherwise dangerous, to the health or safety of the occupants or of the public. (Code 1959, § 18-11(a))

Sec. 22- 10. Same—Vacation.

Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the director of health, shall be vacated within such reasonable time as is ordered by the director of health. (Code 1959, § 18-11(b))

Sec. 22- 11. Same—Reuse.

No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the director of health. The director of health shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated or corrected. (Code 1959, § 18-11(c))

Sec. 22- 12. Same—Removal of placard.

No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in section 22-11. (Code 1959, § 18-11(d))

Sec. 22- 13. Same—Hear ing.

Any person affected by any notice or order relating to the condemnation and placarding of a dwelling or dwelling unit as unfit for human habitation may apply for and shall be granted a hearing on the matter before the director of health, under the procedures set forth in sections 22-5 through 22-7 of this chapter, with right of appeal from such decision as is provided for in section 22-8. (Code 1959, § 18-11(e))

Sec. 22- 14. Emer gency ac tion.

Whenever the director of health finds that an emergency exists which requires immediate action under the provisions of this chapter to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action to be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the board of housing and hygiene shall be afforded a hearing as soon as possible. After such hearing, depending upon their findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with, the board of housing and hygiene shall continue such order in effect, or modify it, or revoke it. (Code 1959, § 18-3(g))

Sec. 22- 15. Rules and regu la tions.

The director of health with the approval of the board of housing and hygiene and the approval of city council is hereby authorized to make and to adopt such further written rules and regulations as may be necessary for the proper enforcement of the provisions of this chapter, provided, that such rules and regulations not be in conflict with the provisions of this chapter. The director of health shall file with the clerk of council a certified copy of all such proposed rules and regulations as have been approved by the board of housing and hygiene and said clerk shall promptly report the same to the city council. Such rules and regulations, upon approval of city council, shall have the same force and effect as the provisions of this chapter, and the penalty for violation thereof shall be the same as the penalty herein provided for violation of the provisions of this chapter. (Code 1959, § 18-4)

Secs. 22- 16—22- 26. Re served.

ARTICLE II. REPEALED

Editor's note—Section 2 of Ord. No. O-86-278, adopted Nov. 25, 1986, amended the Code by repealing §§ 22-27—22-49, which sections were the substantive provisions of Art. II of Ch. 22. Said §§ 22-27—22-49 pertained to the board of housing and hygiene and were derived from § 18-3(f) of the city's 1959 Code.

ARTICLE III. REPEALED

Editor's note—Ordinance No. O-86-278, § 2, adopted Nov. 25, 1986, amended Ch. 22 by repealing §§ 22-50, 22-57—22-67, 22-74—22-77, 22-87—22-95, and 22-102—22-108, which sections constituted the entire substantive provisions of Art. III of said chapter. Said Art. III contained the minimum standards for housing and hygiene and was derived from Code 1959, §§ 18-5(18-5(a)(j)), 18-6(18-6(d)—(g)), 18-7(18-7(a)—(h)), 18-8(18-8(a)—(f)), and 18-9, and from an ordinance enacted Aug. 8, 1978.

ARTICLE IV. ROOMING HOUSES

DIVISION 1. GENERALLY

Sec. 22- 120. Application of chapter.

Every requirement contained in this chapter, except those contained in sections 22-50 through 22-108, shall apply to rooming houses and rooming units and no person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house when such rooming house or rooming unit does not meet the requirements and standards provided by this article. (Code 1959, § 18-10)

Sec. 22- 121. Application to hotels.

Every provision of this chapter which applies to rooming houses shall also apply to hotels, except to the extent that any such provision may be found in conflict with the laws of this state or with the lawful regulations of any state board or agency. (Code 1959, § 18-10(1))

Sec. 22- 122. Repealed. (O- 86- 278)

Editor's note—Section 22-122 was repealed by § 2 of Ord. No. O-86-278, adopted Nov. 25, 1986. This section pertained to sanitary facilities for rooming houses and was derived from Code 1959, § 18-10(f).

Sec. 22- 123. Bed lin ens.

The owner or operator of every rooming house shall change supplied bed linen and towels therein at least once a week, and prior to the letting of any room to any occupant. The owner or operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner. (Code 1959, § 18-10(g))

Secs. 22- 124—22- 127. Repealed. (O- 86- 278)

Editor's note—Section 2 of Ord. No. O-86-278, adopted Nov. 25, 1986, repealed §§ 22-124—22-127, which contained general provisions relative to rooming houses, and which derived from §§ 18-10(h)(k) of the city's 1959 Code.

Secs. 22- 128—22- 133. Reserved.

DIVISION 2. PERMIT

Sec. 22- 134. Re quired.

No person shall operate a rooming house within this city unless he holds a valid rooming house permit issued by the director of health in the name of the operator and for the specific dwelling or dwelling unit. (Code 1959, § 18-10(a))

Sec. 22- 135. Pre req uisite to li cense.

No rooming house shall be licensed by the commissioner of revenue until the permit required by this division shall have been issued and unless the same be in force and in effect. (Code 1959, § 18-10(b))

Sec. 22- 136. Ap pli ca tion.

The owner or operator of a rooming house shall apply to the director of health for a permit required by the provisions of this division. (Code 1959, § 18-10(a))

Sec. 22- 137. Is su ance.

Upon compliance by the owner or operator of a rooming house with the applicable provisions of this chapter, and of any rules and regulations adopted pursuant hereto, the director of health shall issue a rooming house permit. (Code 1959, § 18-10(a))

Sec. 22- 138. Hear ing.

Any person whose application for a permit to operate a rooming house is denied may request and shall be granted a hearing on the matter before the director of health, under the procedure provided in sections 22-5 through 22-8. (Code 1959, § 18-10(a))

Sec. 22- 139. Dis play.

The rooming house permit shall be displayed in a conspicuous place within the rooming house at all times. (Code 1959, § 18-10(a))

Sec. 22- 140. Trans fer.

No rooming house permit shall be transferable. Every person holding such a permit shall give notice in writing to the director of health within twenty-four (24) hours after having sold, transferred, given away, or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. (Code 1959, § 18-10(a))

Sec. 22- 141. Sus pension—Author ized.

Whenever upon inspection of any rooming house the director of health finds that conditions or practices exist which are in violation of any provision of this chapter or of any rule or regulation adopted pursuant hereto, the director of health shall give notice in writing to the owner or operator of such rooming house that unless such conditions or practices are corrected within a reasonable period, to be determined by the director of health, the rooming house permit will be suspended. At the end of such period the director of health shall reinspect such rooming house, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to the owner or operator that the permit has been suspended. Upon receipt of notice of suspension, such owner or operator shall immediately cease operation of such rooming house, and no person shall occupy for sleeping or living purposes any rooming unit therein. (Code 1959, § 18-10(d))

Sec. 22-142. Same—Appeal.

Any person whose permit to operate a rooming house has been suspended, or who has received notice from the director of health that his permit is to be suspended unless existing conditions or practices at his rooming house are corrected, may apply for and shall be granted a hearing on the matter before the director of health, under the procedure provided in Sections 22-5 through 22-8 of this chapter; provided, that if no petition for such hearing be filed within ten (10) days following the day on which such permit was suspended, such permit shall stand automatically revoked and terminated. (Code 1959, § 18-10(e))

Sec. 22-143. Expiration.

Every rooming house permit shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked. (Code 1959, § 18-10(a))

Secs. 22-144—22-150. Reserved.**ARTICLE V. REPEALED**

Editor's note—Ordinance No. O-86-278, § 2, adopted Nov. 25, 1986, amended the Code by repealing §§ 22-151—22-156, which sections constituted the substantive provisions of Art. V of Ch. 22 in their entirety. Said Art. V pertained to paint and other substances containing lead and was derived from §§ 18.1-1—18.1-6 of the city's 1959 Code and from an ordinance of Sept. 11, 1979.

ARTICLE VI. INSPECTIONS OF RESTAURANTS**Sec. 22-157. Definitions.**

The word “restaurant,” when used in this article shall have the meanings respectively ascribed to it in this section.

Restaurant” means any of the following:

(a) Any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include, but are not limited to, lunchrooms, shortorder places, cafeterias, coffee shops, cafes, taverns, delicatessens, regardless of whether food is prepared for consumption on or off the premises, dining accommodations of public or private clubs, kitchen facilities of hospitals or nursing homes, and dining accommodations of public and private schools and colleges. This definition includes the delicatessen portions of grocery stores selling exclusively for off-premises consumption. Excluded from the definition are places manufacturing packaged or canned foods which are distributed to grocery stores or other similar food retailers for sale to the public.

(b) Any place or operation which prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include, but are not limited to, operations preparing or storing food for catering services, pushcart operations, hotdog stands, and other mobile points of service. Such mobile points of service are also deemed to be restaurants unless the point of service and of consumption is in a private residence. (Ord. No. O-83-052, § 1, 3-22-83)

Sec. 22-158. Enforcement.

This article shall be enforced by the director of health of the city or his duly authorized representatives. (Ord. No. O-83-052, § 1, 3-22-83)

Sec. 22- 159. In spec tion of res tau rants.

It shall be unlawful for any person to operate any restaurant within the city limits without complying with the regulations and rules formulated by the state board of health for the following subjects:

- (1) The safe and sanitary maintenance, storage, operation and use of equipment;
- (2) The sanitary maintenance and use of a restaurant's physical plant;
- (3) The safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods;
- (4) Procedures for vector and pest control;
- (5) Requirements for toilet and cleansing facilities for employees and customers;
- (6) Requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code; and
- (7) Requirements for an approved water supply and sewage disposal system. (Ord. No. O-83-052, § 1, 3-22-83)

Sec. 22- 160. Adop tion of state regu la tions.

Pursuant to the provisions of Section 46.1-188 and Section 35.1-9 of the Code of Virginia, 1950, as amended, all of the provisions and requirements of Sections 35.1-3, 35.1-4, 35.1-5, 35.1-6, 35.1-7, 35.1-8, 35.1-10, 35.1-11, 35.1-12, 35.1-14, 35.1-15, 35.1-17, 35.1-18, 35.1-20, 35.1-21, 35.1-22, 35.1-23 and 35.1-24 of the Code of Virginia, 1950, as amended, and in effect on July 1, 1982, are hereby adopted and made a part of this article and this chapter as fully as if set out herein and are hereby made applicable within the city. References therein to the "state health commissioner" shall be deemed to refer to the director of health of the city or his duly authorized representatives. It shall be unlawful for any person, within the city, to violate or fail, neglect or refuse to comply with any section of the Code of Virginia which is adopted by this section. (Ord. No. O-83-052, § 1, 3-22-83)

